IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

THURSDAY, THE 26TH JULY 2007 / 4TH SRAVANA 1929

ST.Rev..No. 254 of 2003

ORDER DATED 19.9.2002 IN TA.170/2000 OF KERALA SALES TAX APPELLATE TRIBUNAL, ADDL.BENCH,ERNAKULAM

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PETITIONER/APPELLANT IN TA/ASSESSEE

M/S.FERTILISERS AND CHEMICALS
TRAVANCORE LTD., UDYOGAMANDAL.

BY ADV. SRI.E.K.NANDAKUMAR
SRI.A.K.JAYASANKAR NAMBIAR
SRI.ANIL D. NAIR
SMT.PRIYA MAHESH
SMT.PRIYA MANJOORAN

RESPONDENT/RESPONDENT IN TA.

STATE OF KERALA.

BY SR.GOVERNMENT PLEADER MR.MOHAMMED RAFIQ

THIS SALES TAX REVISION HAVING BEEN FINALLY HEARD ON 26/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

H.L.DATTU, C.J. & K.T.SANKARAN, J.

S.T.Rev.No.254 of 2003

Dated, this the 26th day of July, 2007

ORDER

H.L.Dattu, C.J.

This revision petition arises under the provisions of the Kerala General Sales Tax Act, 1963. Petitioner is a company incorporated under the provisions of the Companies Act and a dealer registered under the provisions of the Kerala General Sales Tax Act and Central Sales Tax Act. The company is doing the business of manufacture and sale of fertilizers.

(2) This revision petition is filed against the orders passed by the Kerala Sales Tax Appellate Tribunal, Additional Bench, Ernakulam in T.A.No.170 of 2000 dated 19th September, 2002 for the assessment year 1993-94. In this revision petition, the assessee has raised the following questions of law for our consideration and decision: They are as under:

> "i) Whether on the facts and circumstances of the case, the Appellate Tribunal was right in law in denying the Petitioner the benefit of the concessional rate of tax under Section 5(3) of the KGST Act and demanding differential tax from the Petitioner?
>
> ii) Whether the Hon'ble Tribunal was right in law in denying the Petitioner the benefit of the concessional rate of tax under Section 5(3) of the KGST Act based on a subsequent nonpayment of tax when the declaration furnished by the Petitioner at the time of purchase of raw naphtha was factually correct in so far as the finished products manufactured and sold by the Petitioner were taxable under the Act?"

(3) The learned counsel appearing for the assessee would submit that this Court in T.R.C.Nos.54 and 55 of 2003 disposed of on 12th March, 2003 has answered the legal issues framed by the assessee against the assessee and in favour of the Revenue.

(4) Taking note of the submission made by the learned counsel for the assessee, this revision petition is disposed of by answering the questions of law raised by the assessee, against the assessee and in favour of the Revenue.

(5) Consequently, I.A.No.1890 of 2003 is also dismissed.

Ordered accordingly.

(**H.L.DATTU)**
CHIEF JUSTICE

(K.T.SANKARAN)
JUDGE

vns